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PATENT APPLICATION
10/595,451

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of: | Stefan Portner et al. |
| Serial No.: | 10/595,451 |
| Date Filed: | February 19, 2007 |
| Group Art Unit: | 3747 |
| Confirmation No.: | 9931 |
| Examiner: | Gimie, Mahmoud |
| Title: | RADIAL PISTON PUMP FOR COMMON RAIL INJECTION SYSTEMS |

MAIL STOP – AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

The following Pre-Appeal Brief Request for Review (“Request”) is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 (“OG Notice”). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. Applicants respectfully requests reconsideration of the Application in light of the remarks set forth below.

REMARKS

Claims 1-20 stand rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,345,609 issued to Ilija Djordjevic (“*Djordjevic*”). Applicants respectfully traverse and submit that *Djordjevic* does not teach all of the elements of the claimed embodiment of the invention.

Independent Claim 1 includes the limitation of “*the high pressure accumulator is embodied in the form of a ring.*” The usual meaning of the term “ring” is “a circular line, figure, or object” or “an encircling arrangement.” See, for example, Merriam Webster Dictionary. Thus, term ring refers to a circle which per definition does not have a beginning or end. Moreover, the specification supports this interpretation by stating:

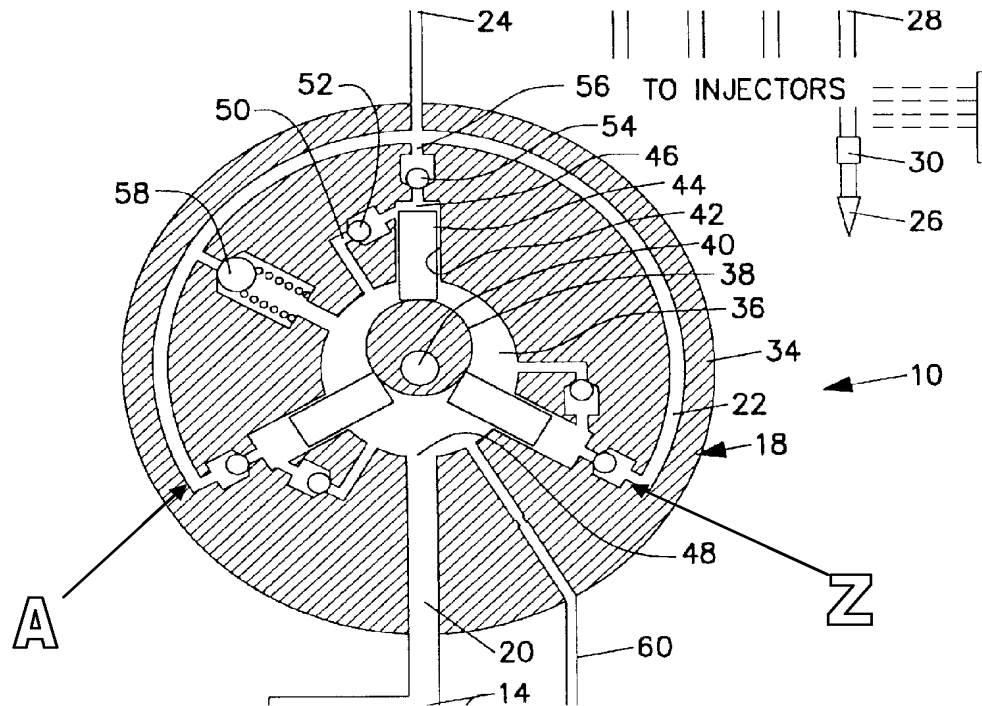
Thereby the high pressure accumulator 4 is embodied in the form of a ring in a front side of the pump housing 1. The ring groove can be realized easily by machining processes, by rotation for instance. Thereby the obvious thing would be to make the ring groove in a single operation together with making the bearing holes for drive shaft 2. This allows the pump housing 1 to be machined in one operation without being rechucked, which results in a particularly simple production process.

Specification, paragraph [0017].

Thus, according to the specification, a ring is machined by rotation for example together with the making of the bearing hole for shaft 2. Hence, as commonly understood and also specified by the Applicant, a ring comprises a full circle without a beginning and an end. The Examiner failed to provide any evidence that the term “ring” can be interpreted in any other way in view of the present specification.

Djordjevic merely discloses a common rail section in the shape of partial circle, namely approximately 2/3 of a circle. *Djordjevic* does not refer to numeral 22 representing this partial circle as a common rail. To form a ring or complete a circle, the common rail 22 according to Fig. 1 would require a further provide a connection between the lower left and right end of the partial circle. However, *Djordjevic* neither discloses nor suggests such an

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Moreover, Figure 1 is merely a schematic representation. The actual embodiment of the internal common rail 22 is shown in Figure 4 which merely shows on the upper left side two single straight bore sections that connect two plunger plugs 90 (See also Fig. 3). A second set of two straight bore sections is arranged on the lower part in Fig. 4. Fig. 4 does not show any connection between those two sections 22. The remaining figures and the specification do not clarify the relationship of these straight bores within the common rail. Thus, the actual embodiments do not even show a partial circle let alone a ring.

Hence, *Djordjevic* does not anticipate the present independent claims.

With respect to dependent claims 3, 6, 13 and 16, these claims require the high pressure accumulator to be formed by a ring groove realized in the pump housing at the front side and sealed with a cover. The Examiner merely states that elements 22 of *Djordjevic*

disclose this limitation. However, *Djordjevic* does not disclose a groove at all. Moreover, *Djordjevic* does not disclose a groove in the front side of the pump housing let alone a cover that seals the groove.

With respect to Claims 4 and 14, the Examiner stated that cover 74 seals the high pressure accumulator 22 and points to figs. 3 and 4. However, Fig. 3 does only show cover 74 and not any part of common rail 22 whereas Fig. 4 only shows common rail 22 without showing cover 74. Hence, the relationship between cover 74 and common rail 22 is unclear.

With respect to Claims 5 and 15, the Examiner stated that *Djordjevic* discloses that the cover 74 is connected to the pump housing by at least one central screw 40. Applicant respectfully disagrees. Element 40 indicates a pilot shaft and not a screw. Fig. 5 of *Djordjevic* however shows clearly that no central screw is used to attach the cover.

The remaining dependent claims are patentable at least to the extent of the independent claims.

CONCLUSION

Applicants submits these Arguments in Support of Pre-Appeal Brief Request for Review, along with a Notice of Appeal. If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas Grubert
Reg. No. 59,143

Date: October 13, 2008

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